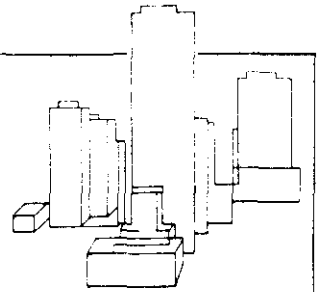




COMMITTEE ON URBAN AFFAIRS

GEORGE PIERCE, Chairman



RO-256

December 2, 1991

Attorney General Dan Morales
P.O.Box 12548
Austin, Tx 78711-2548

Dear Attorney General Morales:

Attached is a letter from San Antonio City Attorney Lloyd Garza to Rep. Conley which details a problem regarding contractor / subcontractor payments and seeks her assistance in getting an Attorney General's opinion. Unfortunately, the City Attorney was not aware of who can request Attorney General's opinions so my office just received this request for an opinion.

Please consider the attached letter, Garza to Conley, as my formal request.

Sincerely yours,


GEORGE PIERCE

GP/psh

CITY OF SAN ANTONIO

P.O. BOX 539986
SAN ANTONIO, TEXAS 78283-3966

August 12, 1991

Honorable Karyne Jones Conley
House of Representatives
314 North Hackberry
San Antonio, Texas 78202

7/8/91 11:21:23 AM

AUG 14 1991

RECEIVED
OFFICE OF DOME DEV.

Dear Representative Conley:

The Dome Advisory Committee's Subcommittee for Minority and Small Business Issues has asked City of San Antonio staff to review factors which area women-owned construction companies have voiced as being obstacles to their achieving success in San Antonio. Among the prime areas of concern is the lack of prompt payment by prime construction contractors to their subcontractors.

The only Texas statute relating to payments owed by governmental entities and those with whom they do business is found at Vernon's Ann. Civ. Stat. art. 601f, entitled "Payments for Goods and Services Contracted for by State or Political Subdivision." Aside from requiring a political subdivision to make its payments within 30 days after receipt of supplies, materials or equipment, the statute also requires vendors who have received payment from a governmental entity to pay each subcontractor the appropriate share of the payment not later than the 10th calendar day after the day on which the vendor receives payment from the governmental entity, or be subject to an interest penalty of 1% per month on the overdue payment. The term "vendor" is defined as "a person, corporation, association, partnership, or other legal entity that supplies goods and/or services to a governmental entity" and the term "subcontractor" as "a person who contracts with a vendor to work, or has contracted with a vendor to contribute toward the completion of work done, for a governmental entity."

Based on the above definitions, my office has advised the Subcommittee for Minority and Small Business Issues that the statute relates to contractor and subcontractor payments for goods and/or services and does not apply to the area of construction contracts and subcontracts. Nevertheless, the Subcommittee has asked that we seek the Attorney General's opinion of whether the statute does in fact apply to payments by construction contractors to construction subcontractors.

"AN EQUAL OPPORTUNITY EMPLOYER"

Representative Conley
Page 2

Given your demonstrated interest in assisting small, minority and women-owned business, I am writing to seek your assistance in obtaining the Attorney General's interpretation of those contracting areas covered by the State's Prompt Payment statute. I have attached a copy of the statute for your convenience. Should you need further clarification regarding this request, please contact Veronica Madrid, Assistant City Attorney at 299-8940.

Thank you in advance for your assistance.

Sincerely,


LLOYD GARZA
City Attorney

IC/vm
Enclosure